

GARFIELD COUNTY, COLORADO
AGREEMENT RELATING TO THE ANNEXATION OF THE GRAY RANCH PROPERTY
AND SOPRIS RANCH PROPERTY TO THE TOWN OF CARBONDALE, COLORADO

THIS ANNEXATION AGREEMENT shall be effective the 21st day of June, 1994, regardless of the actual date of execution by the parties and is made by and among the TOWN OF CARBONDALE, COLORADO, a Colorado Municipal Corporation (the "Town"), whose address is 76 South Second Street, Carbondale, CO 81623, and RICHARD GRAY, MARY L. GRAY, ROGER GRIFFIN and SHERRYL W. GRIFFIN (Gray), PERRY SOPRIS RANCH PARTNERSHIP, LTD., a limited partnership (Perry), (collectively "Landowners"), and CRYSTAL RIVER LAND COMPANY, a Colorado corporation (Developer).

1. Recitals.

For the purposes of interpreting and giving effect to this agreement, the parties agree:

a. Gray is the owner in fee simple of that real property described in Exhibit A attached hereto and incorporated herein by reference (Gray Property) and Perry is the owner in fee simple of that real property described in Exhibit B attached hereto and incorporated herein by this reference (Perry Property), both of which parcels are collectively described as the "Subject Property".

b. The Gray Property was annexed into the Town pursuant to Ordinance No. 27, Series of 1979, Ordinance No. 3, Series of 1981, Ordinance No. 5, Series of 1981, and Ordinance No. 9, Series of 1982, and an Annexation Agreement dated April 6, 1980, and recorded in Book 571 at Page 937, Reception No. 314865, of the Garfield County records. Said agreement was amended by an agreement dated March 23, 1982, recorded in Book 600 at page 928, Reception No. 328431, of the Garfield County records.

c. On or about August 5, 1993, Perry submitted to the Town a Petition to annex the Perry Property.

d. The parties wish to amend and replace in its entirety the Annexation Agreement and Amendment thereto referred to in paragraph 1(b) above by entering into this agreement.

e. The Town enacted a resolution finding the Petition submitted by Perry to be in proper order, and set the matter for public hearing on January 11, 1994, and subsequent continued public hearings on January 19, 1994, January 25, 1994, February 2, 1994, February 8, 1994, February 16, 1994, March 2, 1994, March 22, 1994, April 6, 1994, April 26, 1994, May 5, 1994, May 24, 1994, and June 14, 1994, at which time the public hearing was closed. On June 21, 1994, the Board of Trustees of the Town of Carbondale approved Ordinance No. 19, Series of 1994, approving the annexation of the Perry Property with conditions.



ROBERT B. EMERSON
86 SOUTH THIRD ST.
CARBONDALE, CO 81623

KC

f. Perry desires to amend its Petition to Annex by adding to it the terms of this agreement, and the Landowners and Developer waive all rights, objections, and claims that they may have concerning the formalities of the hearings and notice. The Landowners and Developer further waive any claims that may result from any defect concerning the process, hearings, and decision on the Landowners' annexation petition and recognize and acquiesce to the jurisdiction and the power of the Town to impose the restrictions and conditions hereinafter set forth.

g. No election is needed to annex the Perry Property, Perry is the sole owner of the Perry Property, and Perry waives all rights to an election.

h. The Town and Landowners and Developer mutually agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the Town upon the Landowners and their successors in connection with the acceptance and favorable action on the Petition for Annexation, the Town recognizing and reciting that such matters are necessary to protect, promote and enhance the public welfare.

2. Scope of the Agreement.

a. This agreement is intended to set forth the parties' understanding and agreement as to the annexation of the Subject Property pursuant to the Municipal Annexation Act of 1965, as amended; as to the general nature of the development proposed for the Subject Property; as to the procedures, limitations and standards applicable to the construction of improvements to be installed to serve the Subject Property; as to the responsibilities of the parties for various costs, fees and charges; and to such other matters the parties believe can be adequately addressed at this time.

b. This agreement is not intended to address all of those matters which may be appropriately considered at the time of subdivision and/or development of the Subject Property. The application for annexation of the Perry Property has been made along with a proposed P.U.D. plan for the subject property which, if approved, would replace entirely the P.U.D. zoning previously approved for the Gray Property. Gray stipulates and agrees to such change of zoning and authorizes and requests the Town to adopt new P.U.D. zoning for this property. The Landowners acknowledge that the P.U.D. zoning plan for the Subject Property shall be considered separately by the Town. This agreement shall not be construed as approval of any particular level, scope, density, or type of development on the Subject Property. The Town reserves all rights to review, approve, or deny any proposed zoning and future development on any portion of the Subject Property, in accordance with State law and the ordinances and policies of the Town then in

f. Perry desires to amend its Petition to Annex by adding to it the terms of this agreement, and the Landowners and Developer waive all rights, objections, and claims that they may have concerning the formalities of the hearings and notice. The Landowners and Developer further waive any claims that may result from any defect concerning the process, hearings, and decision on the Landowners' annexation petition and recognize and acquiesce to the jurisdiction and the power of the Town to impose the restrictions and conditions hereinafter set forth.

g. No election is needed to annex the Perry Property, Perry is the sole owner of the Perry Property, and Perry waives all rights to an election.

h. The Town and Landowners and Developer mutually agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the Town upon the Landowners and their successors in connection with the acceptance and favorable action on the Petition for Annexation, the Town recognizing and reciting that such matters are necessary to protect, promote and enhance the public welfare.

2. Scope of the Agreement.

a. This agreement is intended to set forth the parties' understanding and agreement as to the annexation of the Subject Property pursuant to the Municipal Annexation Act of 1965, as amended; as to the general nature of the development proposed for the Subject Property; as to the procedures, limitations and standards applicable to the construction of improvements to be installed to serve the Subject Property; as to the responsibilities of the parties for various costs, fees and charges; and to such other matters the parties believe can be adequately addressed at this time.

b. This agreement is not intended to address all of those matters which may be appropriately considered at the time of subdivision and/or development of the Subject Property. The application for annexation of the Perry Property has been made along with a proposed P.U.D. plan for the subject property which, if approved, would replace entirely the P.U.D. zoning previously approved for the Gray Property. Gray stipulates and agrees to such change of zoning and authorizes and requests the Town to adopt new P.U.D. zoning for this property. The Landowners acknowledge that the P.U.D. zoning plan for the Subject Property shall be considered separately by the Town. This agreement shall not be construed as approval of any particular level, scope, density, or type of development on the Subject Property. The Town reserves all rights to review, approve, or deny any proposed zoning and future development on any portion of the Subject Property, in accordance with State law and the ordinances and policies of the Town then in

effect and in accordance with the terms and conditions of any agreement with the owners of such property.

c. It is not the intention of the parties in any way to diminish or limit the Town's legislative, judicial, quasi-judicial or other non-delegable discretionary powers or to impose on the Town any duty, beyond its ordinances and regulations as they may from time to time exist, nor to impose any special obligation on the Town to approve or accept any items submitted by the Landowners or their assigns including, but not limited to, plans, drawings, reports, security documents, improvements, and conveyances. It is furthermore the expressed intention of the parties that nothing in this agreement shall be construed to void the rights and obligations of the parties as set forth herein, to the extent such rights and obligations are consistent with law. The parties expressly agree they will fully perform this agreement to the extent it is consistent with the law.

d. If any part of this agreement is determined by a court of competent jurisdiction to be in excess of the Town's power and authority, such part shall be unenforceable by either party to this agreement. If any part of this agreement is held to be of no effect by a court of competent jurisdiction, such judicial determination shall not affect any other part of this agreement, which will continue in full force and effect.

3. Annexation.

a. Upon execution of this agreement by the parties, the Town agrees to enact all ordinances necessary to annex the Perry Property, in accordance with the Colorado Municipal Annexation Act of 1965, as amended.

b. This agreement shall only become effective upon the annexation of the Perry Property in accordance with law. In the event the ordinance annexing the Perry Property does not become finally effective pursuant to Section 31-16-105, C.R.S., or for any other reason whatsoever, or, at the Town's option, a successful election upon a referendum petition properly filed with respect thereto has been held which disapproves the annexation ordinance, then in such event this agreement shall be automatically terminated and shall be null and void *ab initio* without any further action by the parties required. Upon such termination, the parties shall consent to the withdrawal of all applications, petitions, agreements, and other actions submitted or requested concerning the Perry Property. In such event, Perry and the Town shall take such actions and make such conveyances as are necessary to restore said parties to their original positions, and neither of said parties shall have any further liability to the other.

c. Notwithstanding any other provisions of this agreement to the contrary, the parties acknowledge that the

Developer has an option to purchase the Gray property and the Perry property. In the event that the Developer has not completed the purchase of both the Gray and Perry properties and becomes the fee simple owner thereof by October 1, 1994, or any other date mutually agreed to by all of the parties to this agreement, the Town shall immediately act on the petition to disconnect described more fully in paragraph 8 hereof with respect to the Perry property only. In said event this agreement shall terminate and be of no further force and effect except those portions of this agreement intended to survive such termination. The Gray property shall revert to the status that existed prior to the date of this agreement. Gray acknowledges and agrees that by entering into this agreement the Town is not making any representation about whether or not Gray has violated the terms of the Annexation Agreement and Amendment set forth in paragraph 1(b) hereof, the terms of any P.U.D. zoning approval for said property, or any Town ordinance that applies to said property or the development thereof. By entering into this agreement neither the Town nor Gray waives any rights that each may have against the other, and Gray specifically acknowledges that the Town, in the event that the subject property is not conveyed the Developer as set forth above, may thereafter seek to disconnect the Gray property from the Town, may seek to revoke or rescind the P.U.D. zoning for the property, and may seek any other remedy or relief available to the Town at law or in equity or as set forth in any agreement between the parties.

d. The Developer agrees that prior to submittal of preliminary plat, it shall have submitted a petition for annexation into the Town and an application for rezoning of the property known as the Turnbull bull pasture (approximately six acres) and such annexation and rezoning shall be completed as a condition of approval of the preliminary plat.

4. Vested Rights.

No vested property rights shall accrue to the Landowners or Developer by virtue of this agreement and annexation of the Perry Property into the Town. Any vested property right of the Landowners or Developer to develop the Subject Property shall be acquired in the manner consistent with applicable law pursuant to a site specific development plan as set forth more fully in C.R.S. 24-68-101 et. seq.

5. Zoning.

The Subject Property shall be zoned according to an ordinance of the Town of Carbondale establishing P.U.D. zoning for the property. In the event that such an ordinance is not approved within ninety (90) days following the date of an ordinance approving this annexation, this agreement shall terminate and be void *ab initio* as set forth in paragraph 3 above. The P.U.D. zoning approval for the subject property shall not exceed a total

of 685 units of which 255 shall be multi-family units and 400 shall be single-family units. (The balance of units shall be caretaker units located on a single family lot.) Of the single family houses, 100 shall be on lots of less than 10,000 square feet and the balance shall be on lots of 10,000 square feet or more.

6. Development.

The Landowners and Developer acknowledge and agree that the Town has the authority to approve or deny any zoning, development or subdivision proposals for the Subject Property and to impose any conditions in connection therewith. The Landowners and Developer irrevocably waive any rights, objections, and claims that they may have now or in the future against the Town arising out of the procedure utilized or decisions made by the Town with respect to any zoning, development or subdivision applications that have now or may be filed by the Landowners or the Developer, provided that such procedures and decisions are made in accordance with applicable Carbondale ordinances. Further, the Landowners and Developer acknowledge and agree that in the event that approval of any zoning, development or subdivision application is denied or such application is approved with conditions not acceptable to the Landowners or Developer, the Landowners or the Town may thereafter take action on the Landowners' Petition to Disconnect as provided for in Section 8 hereof. The Landowners and Developer specifically acknowledge and approve the following conditions of development, and agree that said conditions may be amended in the future by the Town, and other conditions of zoning, development or subdivision may be imposed by the Town in addition to those listed below:

a. **Subdivision Improvements.** In the subdivision or development of the Subject Property, the Developer hereby agrees to develop, and pay for construction of an eighteen (18) hole championship caliber golf course, driving range, club house and related facilities and at least two tennis courts, all of which will at all times be open to the public. The Developer will also dedicate, develop and pay for construction of all public improvements and the extension of all required utilities services in accordance with any applicable subdivision improvements agreement and Town ordinances and regulations then in effect. Such improvements may include bridges, paving, grading, landscaping, curbs, streets, gutters, sidewalks, road lighting, road signs, flood protection devices, water and sewer lines, sewer line interceptor, water lines, water storage facilities, parks, athletic fields, irrigation ditches, bike paths, irrigation systems, drainage structures, landscaping, installation of utilities, payment of impact fees, payment of tap fees, providing security for such undertakings, and any other items set forth in the subdivision improvements agreement. Such obligation will include payment to the Town of the sum of \$400,000 as a park improvement fee to be paid at the rate of \$611.00 per dwelling unit for each phase to be paid at the time of final plat approval. Unless otherwise provided

in any subdivision improvements agreement, design criteria for such improvements, as well as building sites, parking, parks, landscape areas and open spaces shall be subject to Town approval and shall be part of any final development plan submitted for the Subject Property.

b. **Subdivision Deadlines - Phasing.** The Landowners or Developer shall submit a preliminary subdivision plat within one year of the date of P.U.D. approval. The Landowners or Developer shall initiate construction of infrastructure items, including water and sewer lines, streets, sidewalks, and other items, within three (3) years of the date of final P.U.D. approval. If no construction has started by this deadline, the Town may revoke or amend the P.U.D. approval. The subdivision shall be completed in not less than three (3) nor more than ten (10) phases with approval of the final phase of the subdivision within eight years of the date of final P.U.D. approval. The subdivision improvements agreement shall set forth phasing and development restrictions which shall include the following:

(1) There shall be no limit on the number of building permits for multi-family or commercial buildings.

(2) There shall be a limit of building permits issued per year to fifteen percent (15%) of the total number of single-family lots nine thousand, nine hundred ninety-nine (9,999) square feet or less in size (R/LD) 6000 zoning). Credit for any unused building permits in any year shall be carried over to future years.

(3) There shall be a limit of building permits issued per year to fifteen percent (15%) of the total number of single-family lots ten thousand (10,000) square feet or more in size (R/LD 10,000 zoning) for the first three (3) years. Thereafter, the percentage shall be reduced to ten percent (10%) per year. Credit for any unused building permits in any year shall be carried over to future years.

(4) Notwithstanding the foregoing, if in any year more than fifty (50) building permits are issued for multi-family units, the percentage of building permits in the following year for single-family units in subparagraph (2) above shall be increased to twenty percent (20%).

(5) The Developer shall, at a minimum, install the infrastructure improvements so that for every single family lot created in any subdivision phase, there will also be created a lot for at least one multifamily unit until such time as all multifamily units have received subdivision approval.

For the purpose of this paragraph, the date of final P.U.D. approval shall be the date of approval of an ordinance by the Board

of Trustees of the Town of Carbondale approving the Developer's P.U.D. plan. In addition to the foregoing, the Developer shall, at least annually, review the status of the development with the Board of Trustees. In the event of non-compliance with the terms and conditions of this paragraph 6(b), in addition to all other remedies, the Town shall have the right to revoke zoning and/or subdivision approval of the undeveloped portion of the Subject Property following public hearing and notice to the Landowners.

c. **Water Rights.** The Landowners shall convey to the Town by special warranty deed all water rights appurtenant to the Subject Property (subject water rights), which shall include, without limitation, the following water rights:

- (1) 2.80 c.f.s. decreed to the Bowles and Holland Ditch, Ditch No. 66, out of the Crystal River for irrigation purposes with an appropriation date of April 9, 1884 by Decree entered in Case No. 132 on May 11, 1889 under Priority No. 81 by the District Court, Garfield County, Colorado;
- (2) 3.20 c.f.s. decreed to the Bowles and Holland Ditch, Ditch No. 66, out of the Crystal River for irrigation purposes with an appropriation date of June 15, 1887 by Decree entered in Case No. 2086 in February 21, 1920 under Priority No. 180B by the District Court, Garfield County, Colorado;
- (3) 14.00 c.f.s. decreed to the Bowles and Holland Ditch, Ditch No. 66, out of the Crystal River for irrigation purposes with an appropriation date of June 15, 1890 by Decree entered in Case No. 3082 on August 25, 1936 under Priority No. 311, District Court, Garfield County, Colorado;
- (4) 0.3749 c.f.s. of the 5.0 c.f.s. decreed to the Carbondale Ditch, Ditch No. 117, out of the Crystal River for irrigation, municipal, and domestic purposes with an appropriation date of April 1, 1887 by Decree entered in Case No. 132 on May 11, 1889 under Priority No. 169, District Court, Garfield County, Colorado;
- (5) 6.3409 c.f.s. of the 36.24 c.f.s. decreed to the Carbondale Ditch, Ditch No. 117, out of the Crystal River for irrigation purposes with an appropriation date of April 1, 1920 by Decree entered in Case No. 3082 on August 25,

1936 under Priority No. 408, District Court, Garfield County, Colorado; and

- (6) 1 c.f.s. of the 21.5 c.f.s. decreed to the Low Line Ditch under Priority No. 417 on August 25, 1936 in Civil Action No. 3082, District Court, Garfield County, Colorado.

Of these water rights the Town will have the absolute and sole right to use an amount of water sufficient to satisfy the in-house consumptive use of the development from Priority No. 81 of the Bowles and Holland Ditch. The parties estimate this amount of water to be at least 1.5 c.f.s., and the parties agree that if the Town determines the amount to be greater, this determination will be binding on the parties. The parties agree that the said remaining water rights shall, without charge, be reserved for use by the Landowners, their successors, and assigns to provide a raw water supply for the landscaping, lawns, gardens, open space, golf course, golf course water features, and augmentation for golf course ponds associated with the development, to the extent that such use is consistent with the decrees for the said remaining water rights. No priority of use of said remaining water rights will be given to the golf course as compared to individual lot owners, or vice versa, the intent being that all of the users of said remaining water rights have equal priority thereto. To the extent that said remaining water rights are not fully utilized as set forth above, the Town retains the right to use the unutilized portion of said remaining water rights for other purposes. In the event that it is necessary for Landowners or Developer to seek a decree changing the type or place of use for any of the said remaining water rights, it may file and prosecute an application seeking such change only after review and approval by the Town of the application and supporting engineering analysis. In addition, the Town shall have the right to review and approve all proposed Stipulations and Decrees prior to filing the same with the Court. Landowners and Developer shall bear all costs and expenses associated with filing and prosecuting such application to Decree and shall, within thirty (30) days of receipt of an itemized statement from the Town, reimburse the Town for all expenses incurred by the Town in reviewing and approving the said application, engineering, proposed Stipulations, and Decrees.

d. Title Opinion and Analysis - Escrow Agreement. At the time of execution of this annexation agreement, the Landowners shall provide the Town with an attorney's title opinion and analysis upon which the Town can rely stating that, as of the time of execution of this annexation agreement, the Landowners have good and marketable title to the subject water rights in fee simple, free from litigation, defects, and all liens and encumbrances. Said title opinion shall be provided to the Town, together with copies of any and all supporting deeds, releases, or other documents supporting the attorney's title opinion and analysis.

At the time of execution of this agreement the parties shall enter into an escrow agreement satisfactory to the Town whereby the deeds to water rights and documents necessary to release any liens and encumbrances against said water rights are delivered to an escrow agent. The escrow agreement will provide for delivery of the deeds conveying water rights to the Town for recording together with the recording of the release of lien documents if the purchase of the subject property is completed by the Developer as provided in paragraph 3(c) hereof, and if not so completed, for the return of said documents to the appropriate persons or entities. All costs associated with the escrow agreement shall be paid by the Developer.

e. **Supplemental Water to Replace Non-Irrigation Season Requirements.** The Landowners and Developer shall be responsible for securing and maintaining a water allotment contract from the Basalt Water Conservancy District and/or West Divide Water Conservancy District, in the name of the Town, for Ruedi Reservoir storage water in the amount of 6.5 acre feet per year to compensate the Town for the projected non-irrigation season depletion requirement for the proposed development. The Landowners and Developer shall bear all costs for securing and maintaining in perpetuity said contract in the appropriate amount of water, and shall also bear all costs and fees assessed by the Basalt Water Conservancy District or West Divide Water Conservancy District to the contract allottee in connection with securing any necessary approval of the substitute supply plan and/or plan for augmentation. Accordingly, within ninety (90) days of the date hereof, the Landowners and Developer will secure, in the name of the Town, a water allotment contract with the Basalt Water Conservancy District and/or West Divide Water Conservancy District for water stored in Ruedi Reservoir in the amount of 6.5 acre-feet. The obligations in this paragraph may be assumed by a homeowners' association with the prior consent of the Town, which consent shall not be withheld provided the homeowners' association is created under Colorado law with appropriate procedural mechanisms and safeguards that the Town is assured that all sums due from the homeowners' association for the continuation of the appropriate allotment contract will be collected and paid.

f. **Water and Sewer Service.**

(1) **Water and Wastewater Master Plan.** The Landowners and Developer acknowledge that the Town has undertaken to formulate a master plan for water and sewer service, which plan will take into consideration the projected needs for this development. The parties expect that there will be significant expansion required of the Town's water and wastewater facilities in order to be able to provide service to this development. The Landowners and Developer agree to participate in the cost of obtaining and completing said water and wastewater master plan on a proportionate

basis and shall pay the sum so determined as the Landowners' share of the cost of said master plan within ten (10) days of a request for payment by the Town. The formula for calculating the Landowners' portion of such costs shall be as follows:

(a) Water - The total maximum number of EQRs for the project ÷ the total anticipated EQRs for the water system upon completion of improvements.

(b) Sewer - The total maximum number of EQRs for the project ÷ the total number of EQRs by which the sewer plant capacity is expanded above its present capacity.

Said payment shall be non-refundable.

(2) Water and Sewer System Expansion-Tap Fees. The parties acknowledge that in order to provide water and sewer service to this development and to other developments which are now in the planning stage, the Town will be required to significantly expand and improve the Town's present water and sewer treatment facilities and systems and to construct a sewer line interceptor. The cost of such expansion shall be included in water and sewer tap fees. Said fees may be increased over current rates once a determination of the costs of such expansion has been completed. Within ninety (90) days of the date hereof, the Landowners and Developer shall enter into an agreement acceptable to the Town which shall provide, among other things, that the Developer will guarantee payment of water and sewer tap fees for at least 51 EQRs each per year for both water and sewer with all tap fees for the Subject Property being paid no later than fifteen (15) years from the date of this agreement. The agreement will provide that if in any year the number of taps purchased exceed 51 EQRs for both water and sewer, the Landowners and Developer shall be allowed a credit against the guaranteed minimum number of EQRs that must be purchased in subsequent years. The parties recognize and agree that the actual number of EQRs of water and sewer may not be exactly 763 for this project and the Developer's guarantee of annual payment for a minimum of 51 EQRs will end at final build-out of the project if that occurs prior to fifteen (15) years from the date of annexation. The agreement shall be an amendment to this annexation agreement and shall provide that the Landowners' and Developer's obligation as set forth in this paragraph shall be secured by a letter of credit acceptable to the Town. In the event that an agreement is not reached between the Landowners and Developer and the Town within said ninety (90) day period, the Landowners and Developer will be deemed to be in default hereunder, and the Town will have all rights and remedies as set forth herein, including the right of disconnection as set forth in paragraph 8 hereof. Recording notice of termination pursuant to this paragraph by the Town shall conclusively establish that this agreement is void.

(3) **Water Facilities.** Upon request of the Town, the Developer will donate land as may be necessary for the drilling of a well on the subject property or for construction of water storage or other water facilities.

g. **Dry-Up Covenant.** It is contemplated that the development and construction of streets, sidewalks, driveways, parking lots, and single-family and multi-family residential units will result in the dry up of land that has historically been irrigated using the subject water rights. The Landowners agree that any and all consumptive use credit attributable to such permanent dry up shall be owned and controlled by and may be used by or for the benefit of the Town as the Town in its sole discretion deems appropriate. The Landowners hereby release and relinquish any ownership or claim of ownership to said consumptive use credit. The Landowners shall also permanently dry up an average of 0.063 acre (2,747 square feet) of land historically irrigated using the 9.28 c.f.s. of the subject water rights decreed to the Bowles and Holland Ditch as described in the Decree of the District Court, Water Division No. 5, in Case No. 88-CW-421 for each EQR served by the Town, up to a total of 44.2 acres at full build out of the 763 EQR's associated with the development. This provision regarding dry up shall constitute a covenant that touches, concerns, and runs with the land in perpetuity and shall be binding on the Landowners, their successors, and assigns. In addition, subject to the Landowner's right to use the remaining water rights as described in paragraph c above, the Town shall have the right to use the consumptive use credit attributable to the temporary removal from irrigation of land historically irrigated using the subject water rights.

h. **Irrigation Ditches.** The location or relocation of irrigation ditches, together with issues relating to ditch improvements and engineering, shall be determined at the time of preliminary plat submittal. The Landowners and Developer shall bear all expenses associated therewith and shall obtain approval from ditch owners for any modifications of existing irrigation ditches if required by law or by the Town.

i. **Other Utilities.** Other utilities shall be provided to the Subject Property in compliance with the rules and regulations of the respective utility companies supplying such utilities and according to the applicable provisions of the Carbondale Municipal Code.

j. **School Dedication Fee.** The Landowners and Developer shall pay school dedication fees as may be required by the Town. The amount of the fees and the manner of payment and other terms and conditions relating to payment of school dedication fees shall be set forth in the Subdivision Improvements Agreement. The Developer shall use its best efforts to reach an agreement with the

School District regarding such issues by the time of submittal of the preliminary plat.

k. **Parks and Public Open Space.** The subdivision plat shall include a dedication of parks and public open space as shown on the P.U.D. plat submitted to the Town. The parks shall include at a minimum:

(1) A four acre park on the north eastern corner of the property fully developed as softball/soccer field.

(2) a park of approximately 3.5 acres in size on the west side of the Crystal River planted with grass and fully landscaped and otherwise developed as may be required by the Town.

(3) Four (4) riverfront parks of approximately 2, 1.6, 1 and 6 acres in size.

In addition, there shall be an area of approximately 16 acres on the Crystal River dedicated to the public for fishing purposes together with a parking lot for fishermen. The Landowners and Developer will pay the park development fees of \$400,000 as set forth in paragraph 6(a) hereof. The layout of parks and development requirements shall be subject to approval by the Town at the time of preliminary plat submittal. Even if the parks are dedicated or conveyed to the Town, the Developer, or the owner or operator of the golf course if required by the Town, shall maintain all parks to the Town's satisfaction in perpetuity.

l. **Fire District Impact Fee.** The Developer and the Carbondale and Rural Fire Protection District are currently negotiating an agreement for payment of impact fees to the Fire District. The Carbondale and Rural Fire Protection District has requested that the Town approve and impose a \$235.00 per unit impact fee. The Town may impose a requirement that the Developer pay an impact fee to the Carbondale and Rural Fire Protection District as a condition of subdivision approval.

m. **Bike Path.** The Developer agrees to develop a bike path within the Subject Property as part of the subdivision process. The Developer shall provide a 10-foot wide asphalt bike path linking the Hendrick Ranch P.U.D. with the Gray Ranch. The bike path at a minimum shall extend along the entire "looped road" and the bike path shall be taken out to the Highway 133 right-of-way and extended to the south-most part of the property along Highway 133. Provision for a bike path within a street right-of-way or its own right-of-way shall be made during the subdivision process from the south-most part of the property. The purpose of this extension would be to provide for a future bike path connection if additional portions of the Sopris Ranch are developed. The

specifications for said bike path shall be set forth in the Subdivision Improvements Agreement.

n. **Secondary Irrigation System.** The Developer shall be required to design and install a secondary water system for the development. Engineered plans shall be submitted to the Town for approval as part of the submittal of the preliminary subdivision plat. The system shall be designed to provide untreated water to all of the lots and all undeveloped open space in the development. The Developer acknowledges and that the Town may require a piped and pressurized secondary irrigation system in connection with the development of this property. In the event that the Developer and the Town are unable to reach an agreement as to the type of secondary irrigation system to be installed in connection with the development of this property, the Developer will be deemed to be in default hereunder, and the Town will have all rights and remedies set forth herein, including the right of disconnection as set forth in paragraph 8 hereof.

o. **River Access.** The P.U.D. plan and map and the preliminary and final subdivision plats shall provide for public access to the Crystal River on both sides of the river by dedication of an area of land or perpetual easement acceptable to the Town as public open space. At a minimum, this shall include public access along the river in an area to be determined at the time of approval of preliminary plat which shall be at least five (5) feet above the historic high water mark and at the designated public fishing access areas.

p. **Fiscal Impact Fees.** The Developer acknowledges that at the time of annexation, the Town is unable to determine the fiscal impact, if any, of the proposed development on the Town. The Town is presently attempting to analyze the fiscal impact of this and other developments. In connection therewith, the Developer agrees to reimburse the Town within ten (10) days of receipt of an invoice therefor for its proportionate cost of the preparation of a fiscal impact analysis. The Developer's proportionate share of the cost of said study shall be sixty-six percent (66%) of the total cost of said study. The Developer agrees that the Town may impose an impact fee or other measures so that to the greatest extent possible this development will pay the anticipated fiscal impact that the development creates on the Town. In the event that the Developer and the Town have not come to an agreement regarding the amount, terms of payment, and other matters relating to such impact fees within one hundred twenty (120) days of the date hereof, the Developer will be deemed to be in default hereunder, and the Town will have all rights and remedies as set forth herein, including the right of disconnection as set forth in paragraph 8 hereof.

q. **Lift Station.** The Developer will construct and convey to the Town any lift station(s) that may be necessary as part of the sewage treatment system.

r. **Sewer Interceptor Line.** The Developer shall install and convey to the Town an oversize sewer line twelve (12) inches in diameter as part of the development of the Subject Property. The subdivision plat of the Subject Property shall provide for an easement for said sewer line at a location to be approved by the Town.

s. **Colorado Department of Transportation.** In connection with the submittal of a preliminary subdivision plat, the Developer shall submit its development plans to the Colorado Department of Transportation for its review. An access permit shall be obtained by the Developer if required by the Colorado Department of Transportation and the Developer shall comply with and provide all improvements and other requirements of the Colorado Department of Transportation.

t. **Prohibition of Solid Fuel Burning Devices.** The Developer shall include in its restrictive covenants a prohibition of any solid fuel burning fireplaces, stoves, appliances, or other devices.

u. **Eagle Sanctuary.** The Developer shall make provisions acceptable to the Town for an eagle sanctuary. Such provisions shall be included in the Subdivision Improvements Agreement.

v. **Boundary Discrepancies.** The Developer shall satisfy the Town at the time of preliminary plat submittal that any and all boundary discrepancies have been resolved in a fashion acceptable to the Town.

w. **Dogs.** The Developer shall submit a plan satisfactory to the Town for controlling and maintaining dogs as a condition of subdivision approval for the first phase of development.

x. **P.U.D. Conditions.** The Landowners and Developer shall comply with all conditions of P.U.D. approval.

7. **Reimbursement of Costs.**

Pursuant to Section 1.30.030 of the Carbondale Municipal Code, the Landowners and Developer shall pay to the Town the actual cost to the Town for engineering, surveying, legal, and other professional services rendered in connection with this annexation. Said costs shall be paid within twenty (20) days of passage of the ordinance approving the annexation of the Subject Property.

8. Petition to Disconnect.

Upon executing this agreement, Perry shall execute and deliver to the Town a Petition to Disconnect which shall apply for the enactment of an ordinance detaching and disconnecting the Perry Property to be annexed, such disconnection to occur pursuant to C.R.S. 1973, 31-12-501 et seq. The petition for disconnection or detachment shall provide that the Board of Trustees of the Town of Carbondale may act upon such petition and detach all or any part of the Perry Property referred to in such petition at any time if ---

a. The Landowners or any of them, or the Developer, fails to comply with any of the terms and obligations imposed upon the Landowners or Developer by this agreement or any other agreement between any of the parties; or

b. The Landowners, or any of them, or the Developer, do not submit and prosecute faithfully an application for zoning and subdivision for the entire Subject Property as set forth herein or as required by the Carbondale Municipal Code; or

c. The annexation of the Perry Property is not completed for any reason beyond the control of the Landowners and Developer or the P.U.D. zoning and subdivision are not approved authorizing the densities and zoning set forth above; or

d. The Town cannot feasibly supply water and/or sewer service to the Subject Property.

In addition, the Board of Trustees shall act upon such petition and detach all or any part of the property referred to in such petition at any time if the parties do not reach an agreement within the specified periods of time or otherwise comply with the requirements as set forth in paragraph 6 hereof setting forth development requirements or if the Subject Property is not conveyed to the Developer as set forth in paragraph 3(c) hereof.

All ordinances approving subdivision or P.U.D. zoning and all subdivision agreements and P.U.D. agreements concerning the Subject Property shall be subject to the powers of the Town to disconnect the Subject Property or any part thereof pursuant to this agreement. In the event that disconnection occurs subsequent to the approval of a P.U.D. for the Subject Property and execution of a subdivision improvements agreement, the disconnection shall terminate the subdivision improvements agreement and shall cancel the P.U.D. approval, and the zoning of the Subject Property shall revert to the zoning approved by Garfield County or the Town of Carbondale prior to annexation of the Perry Property. In addition, this agreement shall likewise terminate except for those provisions hereof intended by the parties to survive such termination.

The Landowners and Developer hereby unconditionally waive whatever rights or claims that may arise by virtue of a delay between the date of filing of the application for detachment and disconnection, on the one hand, and the date on which the Town grants or denies such application by the enactment or refusal to enact an ordinance disconnecting the Subject Property, on the other hand.

In the event of disconnection, if the deeds conveying water rights have been delivered to the Town and recorded, the Town will reconvey by quit claim deed to the owner(s) of the subject property the water rights conveyed to the Town by said owner(s) or their predecessors in interest.

9. No Guarantee of Water and Sewer Availability.

The parties acknowledge and agree that the Town does not and cannot guarantee the availability of water or sewer services to the Subject Property until such time as, in the sole discretion of the Town, water and sewer services can economically and reasonably be installed so as to provide services to the inhabitants of the Subject Property where the construction and establishment of such services is economically feasible and can be provided at no additional cost for the same or similar type of services provided the inhabitants within the existing limits of the Town. In addition, there shall be no obligation or duty upon the Town to furnish such water and sewer services in the event of any violation of this agreement by the Landowners or Developer. In the event that the Town, in its sole discretion, determines that it is not feasible to provide such water or sewer services, either of the parties shall have the right to thereafter take action on the Landowners' Petition to Disconnect as provided for in Section 8 hereof. Notwithstanding the foregoing, the Landowners agree that no improvements of any kind, including installation of utility lines and other matters relating to development of infrastructure items, shall be undertaken until a determination is made by the Town that water and sewer service can economically and feasibly be provided to the Subject Property.

10. Miscellaneous Provisions.

a. **Recording.** This agreement and any amendments to this agreement shall be recorded in the records of the Garfield County Clerk and Recorder, and upon recording shall be deemed a covenant running with and binding upon all the real property described in Exhibits A and B.

b. **Enabling Ordinance.** To the extent required by law and by the terms of this agreement, the obligations and covenants of the Town are conditional upon the adoption by the Town of appropriate enabling ordinances.

c. **Compliance with Ordinances.** Nothing herein shall limit the obligations of the Landowners and Developer to comply with all zoning and subdivision ordinances of the Town, as well as other provisions of the Carbondale Municipal Code. Without limiting the foregoing, nothing in this agreement shall limit the authority of the Town to exercise its power otherwise available over the matters referred to in this agreement.

d. **Future Budgets.** All obligations of the Town imposed by this agreement are subject to future appropriations, and nothing in this agreement shall be deemed a call or demand on a future budget of the Town.

e. **Land Use Prohibition.** Prior to the Landowners' and Developer's complete fulfillment of all of the obligations imposed on them under this agreement, the Landowners shall not sell, lease, improve, subdivide, apply for a building permit, or apply for a certificate of occupancy for all or any part of the Subject Property, provided, however, that the restrictions of this subparagraph shall not apply to any phase for which final subdivision approval has been granted so long as the Developer is not in violation of any of the terms of this agreement.

f. **Publication Costs.** The Developer shall pay or reimburse the Town for all costs of publication, filing, and recording of all notices and other documents required in connection with the annexation of the Subject Property.

g. **Waiver.** By executing this agreement, the Landowners and Developer waive all rights they have concerning defects, if any, of form and substance of this agreement, the formalities whereby it is executed, and acquiesce in the power of the Town to impose on the Landowners and Developer the conditions and requirements of this agreement. The Landowners and Developer also waive any defects that may have occurred in the hearing process, decisions by the Board of Trustees, and approval of any ordinances in connection herewith.

h. **Assignment.** This agreement shall not be transferred or assigned by the Landowners or Developer to any person or entity without the express prior written consent of the Town, except that the Landowners may sell the Subject Property to the Developer, subject to the terms of this agreement which shall be binding on Developer and any purchaser or subsequent owner of all or any portion of the Subject Property as a covenant running with the Subject Property. In the event of conveyance of the Subject Property by the Landowners to the Developer as set forth in paragraph 3(c) hereof, the Landowners shall be relieved of further liability hereunder. Notwithstanding the foregoing, the Town agrees not to unreasonably withhold its consent to assignment by the Developer to an entity in which the Developer has at least a fifty (50%) percent interest in control or to a person or entity

determined by the Town to have the financial ability, experience, and other qualifications to perform the obligations of the Developer in a manner satisfactory to the Town.

i. **Additional Remedies.** The parties to this agreement shall have all rights available at law or in equity to enforce the terms of this agreement, including the right of specific performance. In the event that any action is filed or maintained by any party in relation to this agreement, such action shall be brought in the Garfield County District Court. The prevailing party in any such litigation shall be entitled to its costs and reasonable attorney's fees.

j. **Non-Suit.** The annexation of the Subject Property shall not render the Town liable for any loss or damage that may be suffered by any person or caused to any property as the result of any use of the Subject Property or any act or omission in the Subject Property arising in connection with the annexation of the Subject Property, or with any subsequent approval of a P.U.D. plan or any subdivision plan by the Town.

k. **Breach Waivers.** The failure of either party to act upon or the waiver of any rights concerning the default or breach of all or any part of this agreement by the other party shall not be deemed a waiver on the part of the non-breaching and non-defaulting party of rights concerning any other or subsequent breach.

l. **Landowners' and Developer's Representations.** This agreement contains all of the understandings, conditions, and agreements between the parties relating to annexation, and no other prior or current representation, oral or written, shall be effective or binding upon the parties, except for any subdivision improvements agreement that may have previously been executed by the parties, and except for representations made by the Landowners, Developer, or their agent, at public hearings concerning the Subject Property.

m. **Authority to Sign.** The signatories to this agreement affirm and warrant that they are fully authorized to enter into and execute this agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this agreement have been made.

n. **Guarantee.** Each and every obligation of the Landowners and Developer as set forth herein is hereby jointly, severally, and personally and unconditionally guaranteed by Robert A. Howard and Patrick F. Crooks.

o. **Binding Effect of Agreement.** This agreement, when fully executed, shall inure to the benefit of and be binding upon the successors in interest and legal representatives of the

respective parties hereto, including all purchasers and subsequent owners of the Subject Property, or any part thereof. This agreement shall be executed in quadruplicate copies, each copy being deemed an original.

p. **Waiver of Defect.** In executing this agreement, the Landowners and Developer waive all rights they may have concerning defects, if any, of the form or substance of this agreement, and the formalities whereby it is executed; concerning the power of the Town to impose conditions on the Landowners and Developer as set forth herein; and concerning the procedure, substance, and form of the ordinances or resolutions adopting this agreement.

q. **Applicable Law - Presumption.** This agreement is made and delivered within the State of Colorado, and the laws of the State of Colorado shall govern its interpretation, validity, and enforceability. All parties have participated in the drafting of this agreement and it shall therefore not be construed against any party.

r. **Notice.** Any notice required to be given under the terms of this Agreement shall be given by certified mail, return receipt requested, postage prepaid, addressed as follows:

Landowners: Gray:
c/o Richard Gray
620 N. Michigan Avenue
Chicago, Illinois

Landowners: Perry:
c/o Robert Perry
0163 Mt. Sopris Ranch Road
Carbondale, CO 81623

Developer: Crystal River Land Company
650 California Street, 14th Floor
San Francisco, CA 94108

Attn: Robert A. Howard

Town: Town Manager
Town of Carbondale
76 South Second Street
Carbondale, CO 81623

with copy to:

Robert B. Emerson
Attorney at Law
86 South Third Street
Carbondale, CO 81623

Any party may change its address by notice to the other parties.

s. **Survival.** The parties acknowledge and agree that all terms and conditions of this agreement which may require continued performance and compliance beyond termination, including without limitation the provisions of paragraphs 2, 3, 4, and 8 of this Agreement shall survive the termination of this agreement and shall be enforceable in the event of such failure to perform.

t. **Time of Recording Annexation Ordinance.** The parties acknowledge and agree that pursuant to C.R.S. 13-12-114(2)(a)(II)(A) the Town is required to file for recording two certified copies of the Annexation Ordinance and map of the area annexed. The parties hereto agree that the Town may, if it chooses to do so, defer filing said documents until after October 1, 1994, in order to determine whether the Developer has completed the purchase of both the Gray and Perry properties as set forth in paragraph 3(c) hereof. In the event said purchase has not been completed by said date, the Town may elect not to file said documents of record and thereby render the annexation ineffective and void. If the annexation ordinance and map have been recorded and if the transfer of property to the Developer has not been completed by October 1, 1994, the Town may disconnect the Perry Property pursuant to the provisions of paragraph 8 hereof. In the event that the Developer has completed the purchase of said properties by October 1, 1994, or any other date mutually agreed to by all of the parties to this agreement, the Town shall thereafter promptly comply with the provisions of said statute if that has not already occurred.

u. **Multiple Counterparts.** This agreement may be executed in multiple counterparts, each of which when fully executed shall be deemed an original but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed.

TOWN OF CARBONDALE, COLORADO,
A Municipal Corporation, acting
by and through its Board of
Trustees.

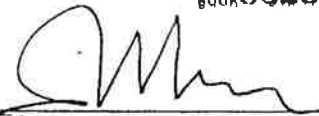
By:

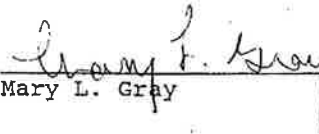
S. Randall Vanderhurst
William K. Gray, Mayor pro tem
S. Randall Vanderhurst

ATTEST:

Suzanne Cerise
Suzanne Cerise, Town Clerk

LANDOWNERS:


Richard Gray


Mary L. Gray

Roger Griffin

Sherryl W. Griffin

PERRY SOPRIS RANCH PARTNERSHIP,
LTD., a limited partnership,

By: _____
General Partner

Developer:

CRYSTAL RIVER LAND COMPANY

By: _____

Guarantors:

Robert A. Howard

Patrick F. Crooks

LANDOWNERS:

Richard Gray

Mary L. Gray

Roger Griffin

Roger Griffin

Sherryl W. Griffin

Sherryl W. Griffin

PERRY SOPRIS RANCH PARTNERSHIP,
LTD., a limited partnership,

By: _____
General Partner

Developer:

CRYSTAL RIVER LAND COMPANY

By: _____

Guarantors:

Robert A. Howard

Patrick F. Crooks

LANDOWNERS:

Richard Gray

Mary L. Gray

Roger Griffin

Sherryl W. Griffin

PERRY SOPRIS RANCH PARTNERSHIP,
LTD., a limited partnership,

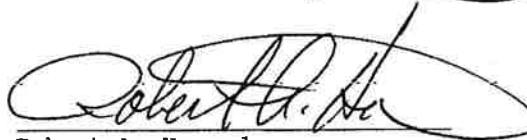
By: 
General Partner

Developer:

CRYSTAL RIVER LAND COMPANY

By: 

Guarantors:


Robert A. Howard

Patrick F. Crooks

LANDOWNERS:

Richard Gray

Mary L. Gray

Roger Griffin

Sherryl W. Griffin

PERRY SOPRIS RANCH PARTNERSHIP,
LTD., a limited partnership,

By: General Partner

Developer:

CRYSTAL RIVER LAND COMPANY

By: Robert A. Howard

Guarantors:

Robert A. Howard

Patrick F. Crooks

STATE OF COLORADO)
COUNTY OF GARFIELD) ss.

S. Randall Vanderhorst RAE

Subscribed, sworn to, and acknowledged before me this 5th
day of July, 1994, by ~~William K. Gray~~ and Suzanne Cerise,
as Mayor and Town Clerk, respectively, of the Town of Carbondale,
Colorado. *Pro-tem RAE*

Witness my hand and official seal.

My commission 8/1/94
expires:

RAE
Notary Public

STATE OF ILLINOIS)
COUNTY OF COCK) ss.

Subscribed, sworn to, and acknowledged before me this 22
day of JUNE, 1994, by Richard Gray and Mary L. Gray.

Witness my hand and official seal.

My commission
expires: 5-9-95

Amy A. Graham
Notary Public

STATE OF _____)
COUNTY OF _____) ss.



Subscribed, sworn to, and acknowledged before me this _____
day of _____, 1994, by Roger Griffin and Sherryl W. Griffin.

Witness my hand and official seal.

My commission
expires:

Notary Public

STATE OF COLORADO)
COUNTY OF GARFIELD) ss.

Subscribed, sworn to, and acknowledged before me this _____
day of _____, 1994, by _____ as general partner
of Perry Sopris Ranch Partnership, Ltd., a limited partnership.

Witness my hand and official seal.

My commission
expires:

Notary Public

STATE OF COLORADO)
COUNTY OF GARFIELD) ss.

Subscribed, sworn to, and acknowledged before me this _____ day of _____, 1994, by William K. Gray and Suzanne Cerise, as Mayor and Town Clerk, respectively, of the Town of Carbondale, Colorado.

Witness my hand and official seal.

My commission _____
expires: _____ Notary Public

STATE OF _____)
COUNTY OF _____) ss.

Subscribed, sworn to, and acknowledged before me this _____ day of _____, 1994, by Richard Gray and Mary L. Gray.

Witness my hand and official seal.

My commission _____
expires: _____ Notary Public

STATE OF _____)
COUNTY OF _____) ss.

Subscribed, sworn to, and acknowledged before me this 21st day of June, 1994, by Roger Griffin and Sherryl W. Griffin.

Witness my hand and official seal.

My commission _____
expires: _____ Notary Public

STATE OF COLORADO)
COUNTY OF GARFIELD) ss.

Subscribed, sworn to, and acknowledged before me this _____ day of _____, 1994, by _____ as general partner of Perry Sopris Ranch Partnership, Ltd., a limited partnership.

Witness my hand and official seal.

My commission _____
expires: _____ Notary Public



STATE OF COLORADO)
) ss.
 COUNTY OF GARFIELD)

Subscribed, sworn to, and acknowledged before me this _____ day of _____, 1994, by William K. Gray and Suzanne Cerise, as Mayor and Town Clerk, respectively, of the Town of Carbondale, Colorado.

Witness my hand and official seal.

My commission
 expires:

 Notary Public

STATE OF _____)
) ss.
 COUNTY OF _____)

Subscribed, sworn to, and acknowledged before me this _____ day of _____, 1994, by Richard Gray and Mary L. Gray.

Witness my hand and official seal.

My commission
 expires:

 Notary Public

STATE OF _____)
) ss.
 COUNTY OF _____)

Subscribed, sworn to, and acknowledged before me this _____ day of _____, 1994, by Roger Griffin and Sherryl W. Griffin.

Witness my hand and official seal.

My commission
 expires:

 Notary Public

STATE OF COLORADO)
) ss.
 COUNTY OF GARFIELD)

Subscribed, sworn to, and acknowledged before me this 20th day of June, 1994, by Robert M. Perry as general partner of Perry Sopris Ranch Partnership, Ltd., a limited partnership.

Witness my hand and official seal.

My commission
 expires: 12-29-97

Ida Mae Bealy
 Notary Public



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
 County of Contra Costa
 On June 16, 1994 before me, Nancy J. Granberg
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"
 personally appeared Patricia F. Chubb
NAME(S) OF SIGNER(S)

☐ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Nancy J. Granberg
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☒ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
 NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

Annexation Agreement
 TITLE OR TYPE OF DOCUMENT

22
 NUMBER OF PAGES

No Date
 DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATE WITHIN LOTS 3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, AND 19, SECTION 3, AND LOTS 1, 6, 7, 8, 9, AND THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 4, ALL IN TOWNSHIP 8 SOUTH, RANGE 88 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GARFIELD, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY OF COLORADO STATE HIGHWAY NUMBER 133, SAID POINT ALSO BEING THE NORTHEASTERLY CORNER OF THE PROPERTY COVEYED TO THE GRAYLINE COMPANY, AN ILLINOIS CORPORATION, AND RECORDED JULY 12, 1977, AS DOCUMENT NO. 279481 IN BOOK 498 AT PAGE 347. WHENCE THE NORTH ONE-QUARTER CORNER OF SAID SECTION 3 BEARS N 57°52'49"E A DISTANCE OF 616.40 FT.; THENCE ALONG SAID RIGHT-OF-WAY S 30°22'38"E A DIST OF 72.13 FT.; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY S 28°44'08"E A DIST. OF 377.46 FT.; THENCE N 61°15'00" E A DIST. OF 120.00 FT. TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF SAID HIGHWAY.; THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY THE FOLLOWING 6 COURSES S 28°45'00"E A DIST. OF 983.40 FT.; THENCE N63°26'00"E A DIST. OF 52.90 FT.; THENCE S 26°34'00"E A DIST. OF 1097.50 FT.; THENCE S 63°26'00"W A DIST. OF 35.00 FT.; THENCE S 06°41'30"E A DIST. OF 88.30 FT.; THENCE S 26°34'00"E A DIST. OF 462.13 FT.; THENCE S 65°12'31" W A DIST. OF 90.21 FT. TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID HIGHWAY NO. 133 AND A POINT IN THE CENTERLINE OF THE CARBONDALE TOWN DITCH.; THENCE ALONG THE CENTERLINE OF THE CARBONDALE TOWN DITCH AS CONSTRUCTED AND IN PLACE THE FOLLOWING THREE COURSES:

S 11°50'10"W A DIST. OF 67.80 FT.; THENCE S 06°47'55"E A DIST. OF 136.26 FT.; THENCE S 07°45'46"W A DIST. OF 99.73 FT.; TO A POINT AT THE INTERSECTION OF THE CENTERLINE OF THE CARBONDALE TOWN DITCH AND A FENCE AS CONSTRUCTED AND IN PLACE.; THENCE S 87°47'47"W ALONG SAID FENCE A DIST. OF 444.21 FT. SAID FENCE BEING THE NORTHERLY LINE OF A PARCEL OF LAND AS CONVEYED IN BOOK 482 AT PAGE 949.; THENCE S 31°20'35"E ALONG THE WESTERLY LINE OF SAID PARCEL AND ALONG THE EASTERLY BANK OF THE CRYSTAL RIVER A DIST. OF 244.24 FT.; THENCE ALONG SAID EASTERLY BANK THE FOLLOWING SIX COURSES AS RECITED ON A MAP PREPARED BY SCARROW AND WALKER IN 1970, S 23°18'22"E A DIST. OF 253.79 FT.; THENCE S 38°21'21"E A DIST. OF 232.58 FT.; THENCE S 51°41'46"E A DIST. OF 189.35 FT.; THENCE S 43°27'57"E A DIST. OF 305.03 FT.; THENCE S 32°11'55"E A DIST. OF 375.05 FT.; THENCE S 30°23'01"E A DIST. OF 113.15 FT. TO A POINT OF INTERSECTION WITH THE EASTERLY BANK OF THE CRYSTAL RIVER WITH A FENCE LINE AS CONSTRUCTED AND IN PLACE; THENCE N 89°58'02"W ALONG SAID FENCE LINE AS DESCRIBED IN BOOK 75 AT PAGE 194 AND IN BOOK 277 AT PAGE 259 A DIST. OF 3002.59 FT.; THENCE ALONG A FENCE AS CONSTRUCTED AND IN PLACE THE FOLLOWING FOUR COURSES: S 06°50'56"W A DIST. OF 123.32 FT.; THENCE S 04°15'05"W A DIST. OF 120.22 FT.; THENCE S 07°47'54"E A DIST. OF 27.98 FT.; THENCE S 00°35'28"E A DIST. OF 193.15 FT. TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 3.; THENCE CONTINUING ALONG SAID LINE N 89°35'39"W A DIST. OF 500.00 FT.; THENCE N 37°15'00"W A DIST. OF 1360.00 FT.; THENCE N 30°30'00"W A DIST. OF 2700.00 FT.; THENCE N 00°00'00"E A DIST. OF 975.85 FT. TO A POINT ON THE SOUTH LINE OF ROCK CREEK SUBDIVISION,

LEGAL DESCRIPTION - CONTINUED

SAID POINT ALSO BEING A POINT ON THE SOUTHERLY LINE OF LOT 3 OF SAID SECTION 4.; THENCE ALONG THE SOUTHERLY LINE OF LOT 2 AND LOT 3 SAID SECTION 4 AND ALONG THE SOUTHERLY LINE OF ROCK CREEK SUBDIVISION N 88°10'32"E A DIST. OF 933.02 FT. TO THE SOUTHEAST CORNER OF SAID LOT 2 AND THE SOUTHEAST CORNER OF ROCK CREEK SUBDIVISION, MONUMENTED BY A REBAR AND CAP LS 3317.; THENCE NORTHERLY ALONG THE LINE COMMON TO LOTS 1 AND 2 SAID SECTION 4 AND THE EASTERLY LINE OF ROCK CREEK SUBDIVISION N 00°06'28"E A DIST. OF 140.76 FT. TO A POINT IN THE CENTERLINE OF THE CRYSTAL RIVER.; THENCE ALONG THE CENTERLINE OF THE CRYSTAL RIVER S 74°31'17"E A DIST. OF 472.99 FT. TO A POINT ON THE NORTHERLY LINE OF LOT 7 AND A POINT ON THE SOUTHERLY LINE OF LOT 1 SAID SECTION 4.; THENCE N 88°10'32"E ALONG THE LINE COMMON TO LOTS 1 AND 7 SAID SECTION 4 AND LOTS 4 AND 5 SAID SECTION 3 A DIST. OF 1580.89 FT. TO A POINT OF INTERSECTION OF SAID LINE AND A FENCE LINE AS CONSTRUCTED AND IN PLACE AND DESCRIBED IN THE AGREEMENT FOR SALE AND PURCHASE AS RECORDED IN BOOK 494 AT PAGE 822 BETWEEN LEWIS R. THOMPSON, PARTY OF THE FIRST PART, AND THE GRAYLINE COMPANY, AN ILLINOIS CORPORATION, PARTY OF THE SECOND PART.; THENCE CONTINUING ALONG SAID FENCE LINE THE FOLLOWING THREE COURSES: S 28°48'43"E A DIST. OF 176.06 FT.; THENCE S 55°14'39"E A DIST. OF 827.40 FT.; THENCE N 00°36'46"E A DIST. OF 1000.04 FT. TO THE POINT OF BEGINNING.

EXHIBIT B

Legal Description.

A parcel of land situated in Sections 9 and 10, Township 8 South, Range 88 West of the 6th Principal Meridian, County of Garfield, State of Colorado, said parcel being more particularly described as follows:

Beginning at a point on the South line of said Section 9 whence the North 1/4 corner of said Section 9 bears North 17 degrees 30 minutes 50 seconds East (N 17°30'50" E), a distance of 5496.23 feet, said point being also on the present town limits line; thence along said present town limits line the following six (6) courses:

- 1) South 89 degrees 35 minutes 39 seconds East (S 89°35'39" E), a distance of 63.39 feet;*
- 2) North 00 degrees 35 minutes 28 seconds West (N 00°35'28" W), a distance of 183.15 feet;*
- 3) North 07 degrees 47 minutes 54 seconds West (N 07°47'54" W), a distance of 27.98 feet;*
- 4) North 04 degrees 15 minutes 05 seconds East (N 04°15'05" E), a distance of 120.22 feet;*
- 5) North 06 degrees 50 minutes 56 seconds East (N 06°50'56" E), a distance of 123.32 feet;*
- 6) South 89 degrees 58 minutes 02 seconds East (S 89°58'02" E), a distance of 2778.37 feet; thence*

South 26 degrees 10 minutes 45 seconds East (S 26°10'45" E), a distance of 207.24 feet; thence
South 06 degrees 22 minutes 00 seconds East (S 06°22'00" E), a distance of 276.66 feet; thence
South 00 degrees 53 minutes 48 seconds West (S 00°53'48" W), a distance of 216.98 feet; thence
South 08 degrees 54 minutes 04 seconds West (S 08°54'04" W), a distance of 207.88 feet; thence
South 72 degrees 03 minutes 22 seconds West (S 72°03'22" W), a distance of 54.24 feet; thence
South 58 degrees 36 minutes 45 seconds West (S 58°36'45" W), a distance of 161.68 feet; thence
North 39 degrees 32 minutes 50 seconds West (N 39°32'50" W), a distance of 132.80 feet; thence
North 75 degrees 52 minutes 23 seconds West (N 75°52'23" W), a distance of 723.89 feet; thence
South 07 degrees 40 minutes 36 seconds East (S 07°40'36" E), a distance of 634.12 feet; thence
South 58 degrees 51 minutes 14 seconds West (S 58°51'14" W), a distance of 354.17 feet; thence
South 36 degrees 51 minutes 30 seconds West (S 36°51'30" W), a distance of 267.31 feet; thence
South 22 degrees 34 minutes 19 seconds West (S 22°34'19" W), a distance of 692.69 feet; thence
South 08 degrees 24 minutes 16 seconds West (S 08°24'16" W), a distance of 247.62 feet; thence
North 88 degrees 24 minutes 20 seconds West (N 88°24'20" W), a distance of 240.73 feet; thence
South 15 degrees 29 minutes 30 seconds West (S 15°29'30" W), a distance of 367.07 feet; thence
South 79 degrees 45 minutes 12 seconds West (S 79°45'12" W), a distance of 727.24 feet; thence
North 35 degrees 24 minutes 16 seconds West (N 35°24'16" W), a distance of 329.29 feet; thence
North 05 degrees 38 minutes 36 seconds East (N 05°38'36" E), a distance of 369.47 feet; thence
North 02 degrees 08 minutes 08 seconds West (N 02°08'08" W), a distance of 642.96 feet; thence
North 17 degrees 09 minutes 18 seconds East (N 17°09'18" E), a distance of 524.21 feet; thence
North 03 degrees 36 minutes 57 seconds West (N 03°36'57" W), a distance of 210.99 feet; thence
North 25 degrees 51 minutes 13 seconds West (N 25°51'13" W), a distance of 432.43 feet; thence
North 02 degrees 01 minutes 51 seconds West (N 02°01'51" W), a distance of 261.39 feet to the point of beginning, said parcel contains 127.931 acres more or less.